



## MANITOWOC PUBLIC UTILITIES

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**Via E-Mail at [smith.molly@epa.gov](mailto:smith.molly@epa.gov) and First Class Mail**

March 27, 2015

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
Attention: Ms. Molly Smith, AE-17J  
77 West Jackson Boulevard  
Chicago, Illinois 60604

RE: Request to Provide Information Pursuant to the Clean Air Act Dated March 13, 2015

Dear Ms. Smith:

On March 19, 2015, Manitowoc Public Utilities (MPU) received a document from Region 5 of the Environmental Protection Agency (EPA) entitled "Request to Provide Information Pursuant to the Clean Air Act" (Request). The Request is submitted pursuant to 42 USC § 7414(a) and for the stated purpose of determining whether MPU's emission sources are complying with the Wisconsin State Implementation Plan, requirements of MPU's Operating Permit Number 4360035930-P23, and the Clean Air Act.

Among other things, the Request directs MPU to submit a written certification expressing its intent to comply with the Request. See, Request paragraph 1. The certification is to be submitted within 10 days of receipt of the Request which would be Sunday March 29, 2015. This effectively means that the certification must be filed by the close of business today (i.e., March 27, 2015) since MPU and EPA are closed on the weekends. This document is submitted in fulfillment of paragraph 1.

MPU is a non-profit, municipal utility with less than 85 employees, located in a community with a population of less than 35,000. MPU has a gross generation capacity of approximately 118.3 megawatts and serves approximately 17,888 customers. As such MPU is considered a "small entity" for purposes of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (RFA).<sup>1</sup>

As a small non-profit entity, MPU has limited staff and resources that can be immediately redirected to respond to the Request. It is especially difficult for MPU to fully analyze the Request

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<sup>1</sup> The RFA definition of small entity also includes non-profits such as MPU. EPA has consistently considered municipal utilities amongst the small entities subject to RFA protections.

within the short window of time that has been provided for the certification. Nonetheless, MPU has performed a cursory review of the Request which has identified concerns with EPA's authority to demand some of the information sought by the Request; particularly the monitoring related matters delineated in paragraphs 17 through 36.

The Request also contains vague and ambiguous terms which are not defined by EPA, thus making it unclear as to precisely what EPA is seeking through the Request without further investigation and/or discussions with EPA. It is also unclear whether EPA can even require the certification demanded by paragraph 1 of the Request.

Subject to these qualifications, MPU provisionally certifies its intent to comply with the Request to the extent the information, data and monitoring sought therein is properly within EPA's authority as described in the Request. This certification is conditioned upon MPU's ability to more fully evaluate the Request, including whether the Request (1) was issued pursuant to lawful authority, (2) is for a lawful purpose, (3) requests information relevant to the lawful purpose, and (4) seeks information that is not unreasonable. By submitting this certification, MPU is not waiving its objections or any defenses it may have to the scope, legality or authority for EPA to seek any information sought by the Request.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Clean Air Act and 18 U.S.C. §§ 1001 and 1341.

If you have any questions or require additional information, please contact me.

Sincerely,

A handwritten signature in black ink that reads "nilaksh kothari". The signature is written in a cursive, lowercase style.

Nilaksh Kothari, P.E.  
General Manager  
Phone: 920-686-4351

**Submitted via E-mail to:**  
[cantello.nicole@epa.gov](mailto:cantello.nicole@epa.gov) and [R5enforcement@epa.gov](mailto:R5enforcement@epa.gov).

Cc:  
Tom Reed – MPU